

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION


HARDESTY BUILDERS, INC.,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. C-10-142
	§	
MID-CONTINENT CASUALTY COMPANY,	§	
<i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

Pending before the Court is Intervenor Simon Herbert & McClelland LLP's ("SMH's") Unopposed Motion to Alter or Amend the Judgment (D.E. 56.) On December 13, 2010, the Court signed an Order granting Defendants' Motion for Summary Judgment. (D.E. 54.) On December 15, 2010, the Court entered a Final Judgment dismissing this case in its entirety. (D.E. 55.) In the present Motion, Intervenor argues that neither party's motion for summary judgment addressed its claims against Plaintiff Hardesty Builder's Inc. and that, as such, its claims against Plaintiff should proceed to trial. (D.E. 56 at 2.) However, Intervenor has no remaining claim against Hardesty. In the Complaint in Intervention, filed with this Court on April 30, 2010, Intervenor alleged that during its representation of Hardesty, it had charged Hardesty approximately \$58,000 for legal services and that a "substantial portion of these fees and expenses remain unpaid." (D.E. 11, Ex. 2, p. 2.) Intervenor stated the following "cause of action": "[i]f Hardesty prevails on its 'defense' claim, then any money paid to Hardesty by Defendants on account of Hardesty's 'defense' claim is due to SMH (up to the balance remaining)." (*Id.* at 2.) Hardesty did not prevail on its "defense" claim against Defendants. (D.E. 54.) No money is to be paid to Hardesty by Defendants on account of Hardesty's

“defense” claim and no such money is due to SMH. Intervenor stated no other claim against Hardesty. Accordingly, the Court finds no trial is warranted. Intervenor’s Motion to Alter or Amend the Judgment (D.E. 56) is DENIED.

SIGNED and ORDERED this 27th day of December, 2010.



Janis Graham Jack
United States District Judge